

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.15688 of 1996

Dated 29-12-2006

Between:

Chintalapudi Lakshmi Kanthamma & others.

..... PETITIONERS

AND

The Revenue Divisional Officer, Gudivada, Krishna District and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.15688 of 1996

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ORDER:

Seeking a direction from this Court to mutate the names of the petitioners in the revenue records in respect of the lands assigned to them, the present writ petition is filed.

The petitioners were assigned lands under B.S.O. 15 Para 11(3) under the category of political sufferers. Among the conditions of assignment is that the land should be brought under cultivation within two years from the date of the order either by the assignee or by his successor in title. As the lands were assigned to the petitioners in the year 1992, they ought to have been brought to cultivation by 1994, but even till 2002, the lands were not brought under cultivation. From out of the total extent of Ac.45.89 cents, approximately Ac.32.00 is said to be under the occupation and enjoyment of third parties and the remaining extent is said to be lying waste.

It is stated in the counter affidavit that the petitioners had violated the conditions of grant of assignment and that condition 13 of assignment gives liberty to the Government to resume the land without compensation. It is further stated in the counter affidavit that some of the petitioners had given a general power of attorney in favour of one Indukuri Venkata Satyanarayana Raju in the year 1994 and that the general power of attorney was registered at the Sub-Registrar's Office at Vijayawada. It is stated that, while granting patta, the Mandal Revenue Officer had ordered that the beneficiaries should pay land value and interest from fasli 1403 in 15 instalments but none of the writ petitioners had paid the land rate till date. According to the respondents, unless the entire amount towards land value and interest is paid, the question of mutation does not arise. It is also stated that, as the petitioners are not in possession and enjoyment of the lands ever since they were granted D-form pattas and others are in occupation thereof and enjoying the lands by way of Fishi culture and Prawn culture, the question of mutation in favour of the petitioners does not arise.

Sri P.Sri Raghuram, learned counsel for the petitioners, would contend that, as long as the petitioners continue to remain as pattedars, they are entitled for their names being mutated in the revenue records in accordance with the provisions of the A.P. Rights in Land and Pattadar Pass Books Act, 1971.

Learned Government Pleader for Revenue submits that, while the respondents were entitled to resume the lands as early as in the year 1994, inasmuch as the conditions of grant had been violated by the petitioners herein by not cultivating the lands within a period of two years and in not paying the land value with interest and as third parties had been put in possession, it was only because of the pendency of the writ petition, that no action was taken to resume the lands. Learned Government Pleader, on instructions, would submit that the respondent authorities intend to take action against the petitioners herein for violating the conditions of grant of assignment and that necessary action in this regard would be taken shortly.

It is well settled that the jurisdiction of this Court under Article 226 of the Constitution of India is discretionary and is to be exercised only in furtherance of larger public interest. While the contention of Sri P.Sri Raghuram, that as long as the petitioners continue to be the pattedars they are entitled to have their names mutated in accordance with the provisions of the A.P. Rights in Land and Pattadar Pass Books Act, 1971, cannot be said to be without merit, in the light of the specific allegations in the counter affidavit that the petitioners had violated the conditions of the grant, I see no reason to exercise discretion under Article 226 of the Constitution of India to interfere in their favour. Suffice it to hold that, in case, the respondent-authorities fail to take action against the petitioners for violating the conditions of grant of assignment within a period of two months from the date of receipt of a copy of this order, the respondents shall take necessary action to cause entries in the revenue records in their favour without prejudice to their right to take action against the petitioners for violating the conditions of assignment.

The Writ Petition is accordingly disposed of. No order as to costs.

29-12-2006

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